

BUREAU OF AUTOMOTIVE REPAIR

ORDER OF ADOPTION

The Bureau of Automotive Repair hereby adopts the following regulations in Chapter 1 of Division 33 of Title 16 of the California Code of Regulations:

(1) Section 3340.1 of Article 5.5 is amended to read as follows:

§ 3340.1. Definitions.

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(q) "Gold Shield ~~Guaranteed Repair Station~~" means a registered Automotive Repair Dealer who is also a licensed Smog Check station which has been certified by the department and meets all the requirements specified in Article 10, of these regulations.

(r) ~~"Re-inspection Rate" also refers to the "ping-pong rate" and means the number of gross polluting vehicles repaired and retested by a GSGR station which fail their re-inspection at a Test-Only facility or station. The re-inspection rate does not include vehicles whose owners agree to have less than full repairs recommended by the GSGR station.~~ "Comparative Failure Rate (CFR)" means that the station's failure rate, under the Gold Shield Program, must be comparable to the Test-Only station failure rate for all non-directed vehicles of the same model-year. The station's failure rate, using initial tests, by model-year, of non-directed vehicles is applied to an industry-wide failure rate for Test-Only stations, calculated quarterly by smog check program area, using initial tests, by model-year, of non-directed vehicles inspected, and includes an allowable deviation to compensate for the random distribution of passing and failing vehicles based upon a 95 percent confidence level.

(s) ~~"Offline Certification" means the certification of a vehicle when a test analyzer system (TAS) or EIS is disconnected from the Vehicle Identification Database (VID)~~ "Non-directed

vehicle” means a vehicle that was not required to be inspected at a Test-Only station pursuant to Sections 44010.5 or 44014.7 of the Health and Safety Code.

(t) “Clean piping,” for the purposes of Health and Safety Code section 44072.10(c)(1), means the use of a sample of the exhaust emissions of one vehicle in order to cause the TAS or EIS to issue a certificate of compliance for another vehicle.

(u) “Initial test” means the first Smog Check inspection of a vehicle done in official test mode or pre-test mode and performed within one hundred eighty (180) days prior to a registration renewal date or a change of ownership date for that vehicle. An initial test does not include tests that are aborted before completion or tests done in the training or manual modes of the TAS or EIS.

~~(u)~~ “Vehicle Identification Information Database (VID)” means a centralized computer database and computer network, which is readily accessible by all licensed smog check technicians on a real time basis.

~~(v) “Gold Shield Gross Polluter Certification (GPC) Station” means a licensed Smog Check station certified pursuant to Section 44014.2 of the Health and Safety Code and which participates in the pilot program established pursuant to Section 44014.5(g)(2)(B).~~

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NOTE: Authority cited: Sections 44001.5, 44002, 44072.10, 44091 and 44095, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44001.3, 44005, 44010.5, 44011, 44012, 44014, 44014.2, 44014.5, 44017, 44017.1, 44030, 44036, 44037.1, 44056, 44062.1, 44070, 44072.10, 44092, 44093, 44094 and 44103, Health and Safety Code; Sections 220 and 11500, Vehicle Code; and Section 11505, Government Code.

(2) Section 3392.1 of Article 10 is amended to read as follows:

§ 3392.1. Gold Shield-Guaranteed Repair (GSGR) Program (GSP).Eligibility

Requirements.

~~An applicant for certification as a GSGR Station must file an application on the form GSR-1~~

~~(08/05/97) and must, as of the date of the application, meet all of the following basic requirements for eligibility:~~

~~(a) The applicant must hold a current registration as an Automotive Repair Dealer and a current license as a Smog Check Station;~~

~~(b) Neither the registration nor the license is suspended;~~

~~(c) No accusation is filed and pending against the registration or the license;~~

~~(d) During the 12 months preceding the date of the application, no citation has been issued against the applicant; and~~

~~(e) During the 12 months preceding the date of the application, neither the current or the previous registration nor the current or previous license has been issued an order of suspension, a probationary order, or any other disciplinary order.~~

The Gold Shield Program is a voluntary program that permits any licensed Smog Check test-and-repair station, which meets or exceeds the standards established pursuant to this article to obtain a certification that may be publicly displayed and otherwise advertised.

(a) The purposes of the Gold Shield program are to:

(1) Reduce the complexity of the Smog Check Program by allowing Smog Check stations certified as Gold Shield stations to offer consumers a wider array of inspection and repair services.

(2) Encourage consumer confidence in the required emissions inspections and repairs by the establishment of inspection and repair standards that stations must meet or exceed to receive and retain certification from the Bureau.

(3) Improve the identification and repair of high-emitting vehicles to enhance the effectiveness of the Smog Check Program.

(4) Contribute to the emissions reductions objectives required by the State Implementation

Plan and federal standards.

NOTE: Authority cited: Sections 44001.5, 44002 and 44014.2, Health and Safety Code. Reference: Sections 44002, 44014, and 44014.2, 44050 and 44072, Health and Safety Code; and Sections 480 and 9884, Business and Professions Code.

(3) Section 3392.2 of Article 10 is amended to read as follows:

§ 3392.2. Causes for a Denial of a GSGR Station Application.

Check Stations Certified as Gold Shield.

~~The following are causes for denial of a GSR 1 (08/05/97) application:~~

- ~~(a) The applicant fails to meet any of the eligibility requirements of Section 3392.1;~~
- ~~(b) The applicant has been convicted of any crime substantially related to the applicant's qualifications, functions or duties as a certified GSGR Station;~~
- ~~(c) The applicant has done any act involving dishonesty, fraud or deceit with the intent to substantially benefit the applicant or another, or substantially injure another;~~
- ~~(d) The applicant has done any act which if done by a certificate holder would be cause for withdrawal of the certificate;~~
- ~~(e) The applicant has engaged in any conduct which would be cause for discipline of the applicant's Automotive Repair Dealer registration or the applicant's Smog Check Station license, or which would be cause for issuance of a citation to the registration or license;~~
- ~~(f) During the three months preceding the date of the application, the applicant has engaged in offline certification; or,~~
- ~~(g) During the three months preceding the date of the application, the applicant has engaged in issuing certificates to vehicles with no corresponding Department of Motor Vehicles (DMV)/Vehicle Identification Database (VID) match although the vehicle is correctly identified and referenced in the DMV database. This provision excludes both out-of-state and no-license-~~

~~plate vehicles.~~

(a) Smog Check test-and-repair stations certified as Gold Shield stations shall provide the following services to the public:

(1) State subsidized emissions-related repairs, under the terms and conditions of a contract executed pursuant to Section 3394.2, as a component of the Bureau's Consumer Assistance Program established pursuant to Article 11 of this Division. This paragraph shall not apply to those stations located in change of ownership program areas.

(2) The certification of vehicles previously identified as gross polluters.

(3) For Gold Shield stations with a complete BAR-97 Emissions Inspection System capable of performing enhanced area loaded-mode inspections pursuant to Section 44003(a)(1) of the Health and Safety Code, irrespective of their program area location, the after-repairs certification of failed vehicles that were directed to and initially tested at Test-Only stations pursuant to Sections 44010.5 or 44014.7 of the Health and Safety Code provided that the vehicles are repaired at the Gold Shield station.

(4) For Gold Shield stations located in basic or change of ownership program areas that do not perform enhanced area loaded-mode inspections pursuant to Section 44003(a)(1) of the Health and Safety Code, the certification of vehicles registered in enhanced areas if the vehicles were purchased by a licensed Department of Motor Vehicles Motor Vehicle Dealer, as defined in Section 285 of the Vehicle Code, with the intent of offering the vehicles for sale upon the dealer's premises that are located in basic or change of ownership areas. Gold Shield stations authorized pursuant to this paragraph shall not issue a certificate of compliance to a vehicle registered in an enhanced area that is required to have an enhanced area test if the vehicle is owned by an entity other than a Motor Vehicle Dealer licensed by the Department of Motor

Vehicles.

(b) All emissions-related repairs at a Gold Shield station shall be performed in a good and workmanlike manner and in accordance with the procedures specified by the vehicle manufacturer or by repair standards generally accepted by the industry.

(c) A Gold Shield station shall display an exterior sign that meets the following specifications:

(1) The dimensions of the sign shall be 24 inches wide and 30 inches high.

(2) The sign shall be made of 0.040-inch aluminum, steel, or plastic.

(3) The Bureau shall supply a camera-ready design and content of the sign.

(d) A Gold Shield station may advertise those services authorized by subsection (a), other than by displaying the sign specified in subsection (c).

(e) A Gold Shield station shall allow bureau personnel reasonable access to the station for the on-site inspection of vehicles where repairs are still in progress or have been completed and the vehicles remain on the premises. The inspections shall be for the purpose of evaluating the appropriateness and effectiveness of the repairs performed by the station.

NOTE: Authority cited: Sections 44001.5, 44002, 44014.2 and 44095, Health and Safety Code. Reference: Sections 44014, 44014.2 and 44037.1, 44092, Health and Safety Code, and Sections 480 and 490, Business and Professions Code.

(4) Section 3392.3 of Article is amended to read as follows:

~~§ 3392.3. Gold Shield Guaranteed Repair (GSGR) Program Performance~~

~~Standards.~~Eligibility for Gold Shield Certification; Quality Assurance.

~~(a) A certified GSGR Station shall comply with all statutes and regulations relating to its Automotive Repair Dealer registration and its Smog Check Station license.~~

~~(b) A GSGR Station shall also:~~

~~(1) guarantee at a minimum that a vehicle will pass the certification inspection at a Test-Only facility or station, if the inspection is performed within 10 days or 1,000 miles, whichever comes first, of the GSGR Station's repairs.~~

~~(2) maintain a re-inspection rate of five percent or less.~~

~~(3) perform guaranteed emission-related repairs to a vehicle and perform an after-repairs test for all vehicles given emissions-related repairs.~~

~~(4) disclose guarantees and warranties in accordance with sections 3375 and 3376, of these regulations.~~

~~(5) verify exceptions to the re-inspection rate as being official if the customer together with the GSGR Station both sign the repair order indicating that the customer does not want full repairs recommended by the GSGR Station as documented in the repair order.~~

~~(6) if the certification inspection at the Test-Only facility or station indicates that further repairs are necessary to obtain a certification, they shall be performed at the GSGR Station at no charge to the consumer.~~

~~(7) cooperate fully with the department and its agents and employees in the department's monitoring, including on-site inspections, of the station's performance.~~

(a) A licensed Smog Check Test-and-Repair station seeking Gold Shield certification shall complete and file a Gold Shield Station Application form (GSR-1 04/25/2003), which is hereby incorporated by reference, and shall, as of the date the application is received by the bureau, meet all of the following eligibility requirements:

(1) The station's Comparative Failure Rate (CFR) over the preceding calendar quarter must meet or exceed the industry-wide failure rate for Test-Only stations, by smog check program area, as calculated quarterly by the bureau.

(2) The station must have conducted a minimum of 10 successful emission repairs in the preceding calendar quarter. For the purposes of this section, a “successful emission repair” means:

(A) The vehicle must have failed the emissions portion of a Smog Check in official test mode or pre-test mode at any Smog Check station prior to the repair; and

(B) The Smog Check station must have repaired the vehicle and entered repair data into the Vehicle Information Database; and

(C) The vehicle must have been issued a Certificate of Compliance at any Smog Check station within ten (10) days following the repairs made by the applicant Smog Check station.

(3) The station’s repair performance, in the preceding calendar quarter, must rate within the top 75% of test-and-repair stations in the same smog check program area. A station’s repair performance is computed by comparing the final emission readings of each successful emission repair to the average passing emission readings for the same model-year and emission standards category of the vehicle repaired.

(4) The station must not have been issued any citations pursuant to Section 44050(a) of the Health and Safety Code within the preceding one-year period nor employ any technicians who have been issued any citations pursuant to Section 44050(b) of the Health and Safety Code within the preceding one-year period.

(5) Neither the current nor any previous registration or license of the station owner, manager and licensed Smog Check technicians employed by the station, has been issued an order of suspension, a probationary order, or any other disciplinary order within the preceding three-year period. No station owner, officer, manager, licensed Smog Check technician or other employee of the station may currently be subject to suspension, probation or other disciplinary order.

(6) The station owner, manager and licensed Smog Check technicians or other employees of the station, must not have been convicted of a crime within the preceding three-year period that is substantially related to the duties of an Automotive Repair Dealer, a licensed Smog Check station, or a licensed Smog Check technician. The station owner, manager and licensed Smog Check technicians or other employees of the station, must not have been found liable in a civil proceeding, excluding small claims matters, within the preceding three-year period, for acts or omissions that are substantially related to the duties of an Automotive Repair Dealer, a licensed Smog Check station, or a licensed Smog Check technician. The station owner, manager and licensed Smog Check technicians or other employees of the station must not be serving a probationary period as a result of any such criminal or civil proceeding.

(7) The station must not have engaged in any conduct that would be cause for discipline of the station's Automotive Repair Dealer registration or Smog Check station license.

(8) The station must pass a Quality Assurance inspection administered by bureau personnel as part of the certification process. A Quality Assurance inspection consists of any or all of the following:

(A) A verification of compliance with all licensure and license posting requirements.

(B) A verification of compliance with all signage requirements.

(C) A verification of compliance with all estimate, repair order, invoice and record-keeping requirements.

(D) A verification of possession of all required manuals and publications.

(E) A verification of possession of all required tools and equipment and a verification of their proper working order.

(F) Evaluations of licensed smog check technicians' ability to perform complete smog check

inspections, and diagnoses and repairs of failed vehicles.

(b) Smog Check stations located in change of ownership program areas shall only have to meet standards (a)(4)-(a)(7), inclusive, to obtain Gold Shield certification.

(c) The bureau may conduct periodic quality assurance inspections of the station. If a Gold Shield station's performance does not comply with the criteria established pursuant to this section, written notice of the deficiency shall be provided to the station by the bureau, and the station shall have sixty (60) days to correct the deficiency. The bureau may conduct a follow-up quality assurance inspection to ensure the deficiency has been corrected.

(d) The bureau, on a quarterly basis, shall evaluate a Gold Shield station's inspection and repair performance and compliance with the criteria established pursuant to this section. A Gold Shield station that fails to meet the certification criteria specified in paragraphs (1), (2) or (3) of Subsection (a) of this section, will be notified in writing of the nature of the deficiency. The Gold Shield station may be given one additional quarter to meet those standards.

(e) A station may, upon ten (10) days written notice to the Bureau, withdraw from the Gold Shield Program.

NOTE: Authority cited: Sections 44001.5 and 44014.2, Health and Safety Code. Reference: Section 44014.2, Health and Safety Code.

(5) Section 3392.4 of Article 10 is repealed as follows:

~~§ 3392.4. Gold Shield Guaranteed Repair (GSGR) Program Advertising Rights.~~

~~(a) A GSGR Station certified pursuant to this Article shall prominently display a GSGR Certification, a GSGR Station Sign and a Guarantee Sign.~~

~~(1) GSGR Certification issued by the Department shall be prominently posted in a conspicuous area frequented by customers.~~

~~(2) GSGR Station Sign Design.~~

~~(A) Dimensions of the sign shall be 24 inches wide and 30 inches high.~~

~~(B) Sign material. The sign shall be made of 0.040 inch aluminum or steel.~~

~~(C) Content. Camera-ready design and content of the sign shall be supplied by the department.~~

~~(3) Guarantee Sign Design.~~

~~(A) Dimensions of the sign shall be 22 inches wide and 16 inches high and posted, in a conspicuous area frequented by customers, indicating rights and responsibilities of a GSGR certified station.~~

~~(B) This includes a statement, printed in large letters, of the station's performance standards specified in subsection 3392.3(a) and (b) (1) through (7), of these regulations.~~

~~NOTE: Authority cited: Section 44001.5, Health and Safety Code. Reference: Section 44014.2, Health and Safety Code.~~

(6) Section 3392.5 of Article 10 is amended to read as follows:

§ 3392.5. Gold Shield Guaranteed Repair (GSGR) Station Withdrawal of Certification. Causes for Invalidation of Gold Shield Station Certification.

~~(a) It shall be cause for withdrawal of certification, temporarily or permanently, if the GSGR Station engages in any conduct which violates any provision of this Article or which would be cause for discipline of the station's Automotive Repair Dealer (ARD) registration or Smog Check Station license, or which would be cause for issuance of a citation to the registration or license.~~

~~(b) Nothing in this Article shall limit the department's authority to discipline or to cite the registration of an ARD or the license of a Smog Check Station or technician.~~

~~(c) The department shall summarily cancel the certification of a GSGR Station upon expiration of the station's ARD registration or Smog Check Station license unless timely renewed.~~

~~(d) The department may summarily cancel the certification of a GSGR Station in the event the station's ARD or Smog Check Station license is disciplined in any form.~~

~~(e) The department may summarily cancel the certification of a GSGR Station in the event the station has engaged in offline certification.~~

~~(f) The department may summarily cancel the certification of a GSGR Station in the event the station has issued certificates to vehicles with no corresponding Department of Motor Vehicles (DMV)/Vehicle Identification Database (VID) match although the vehicle is correctly identified and referenced in the DMV database. This provision excludes both out-of-state or no-license plate vehicles.~~

(a) It shall be cause for the Bureau to invalidate the certification of a Gold Shield station, temporarily or permanently, if any of the following occur:

(1) The Gold Shield station, manager or Smog Check technicians employed by the station, engage in any conduct which violates any provision of this article or which would be cause for discipline of, or which would be cause for issuance of a citation to the station's Automotive Repair Dealer registration or Smog Check station license, or the license of a technician employed by the station.

(2) The Gold Shield station's Automotive Repair Dealer registration or Smog Check station license expires or otherwise becomes delinquent.

(3) The bureau disciplines the Gold Shield station's Automotive Repair Dealer registration or Smog Check station license in any form or manner.

(4) The Gold Shield station fails or is unable to provide the services specified in section 3392.2(a).

(5) The Gold Shield station, if located in other than an enhanced area, issues a certificate of

compliance to a vehicle registered in an enhanced area that is required to have an enhanced area test if the vehicle is owned by an entity other than a motor vehicle dealer licensed by the Department of Motor Vehicles, unless the station performed an enhanced area test as prompted by the Emissions Inspection System.

(6) The Gold Shield station fails to comply with the certification criteria specified in paragraph (a)(1), (2) or (3) of Section 3392.3 for two consecutive calendar quarters.

(7) The Gold Shield station fails to correct a deficiency identified in a quality assurance inspection within the specified time period.

NOTE: Authority cited: Sections 44001.5 and 44014.2, Health and Safety Code. Reference: Sections 44014.2 and 44037.1, Health and Safety Code; and Sections 480 and 490, Business and Professions Code.

(7) Section 3392.6 of Article 10 is amended to read as follows:

§ 3392.6. Gold Shield ~~Guaranteed Repair (GSGR)~~ Program Hearing and Determination.

If the ~~department~~ bureau denies an application for ~~GSGR~~ Gold Shield certification or if the ~~department~~ withdraws bureau invalidates, temporarily or permanently, an existing Gold Shield station's certification, the ~~department~~ bureau shall file and serve a written notice of denial or ~~withdrawal~~ invalidation. The written notice shall contain a summary of the facts and allegations which form the cause or causes for denial or ~~withdrawal~~ invalidation.

(a) Service of the written notice may be effected in any manner authorized by Business and Professions Code Section 124.

(b) If a written request for a hearing is delivered 15 days from the date of service, a hearing shall be held as provided for in (d) below.

(c) The ~~department~~ bureau shall schedule a hearing within ~~30~~ 60 days of the date the ~~department~~ bureau receives a timely request for a hearing. The ~~department~~ bureau shall notify the applicant or ~~GSGR~~ certified Gold Shield ~~Station~~ or representative of the time and place of

the hearing.

~~(d)~~ The hearing shall be limited in scope to the time period, and facts and allegation specified in the written notice prepared by the ~~department~~ bureau.

~~(e)~~ The applicant or ~~GSGR Gold Shield S~~station shall be notified of the determination by the ~~director chief~~, or the ~~director's chief's~~ designee, who shall issue a decision and notify the applicant or ~~GSGR Gold Shield S~~station within 15 days of the close of the hearing.

~~(f)~~ The ~~department~~ bureau may order that a certification be ~~withdrawn~~ temporarily invalidated pending any hearing and pending any post-hearing decision of the ~~director chief~~.

NOTE: Authority cited: Sections 44001.5 and 44014.2, Health and Safety Code. Reference: Section 44014.2, Health and Safety Code; and Section 124, Business and Professions Code.

/s/ _____
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